

1 THOMAS MIRCZAK, ESQ.
2 Nevada Bar No. 2126
3 CISNEROS CLAYSON & MARIAS
4 One East First Street, Suite 1400
5 Reno, NV 89501
6 775-326-8200
7 775-326-8206 fax
8 Attorneys for Defendant
9 KING CONSTRUCTION, INC.

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
AUG 04 2011	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 JUDY KROSHUS, et al.,

13 Case No.: 3:08-cv-00246-LDG-RAM

14 Plaintiffs,

15 v.

16 **ORDER GRANTING MOTION FOR**
17 **DETERMINATION OF GOOD**
18 **FAITH SETTLEMENT**

19 UNITED STATES OF AMERICA, et al.,

20 Defendants.

21 Based upon Motion made by Defendant, KING CONSTRUCTION, INC., by and through its
22 attorney, THOMAS MIRCZAK, ESQ., of CISNEROS CLAYSON & MARIAS, upon the papers and
23 pleadings on file in this matter, and the hearing held thereon, the Court now enters its findings of facts,
24 conclusions of law and judgment as follows:

- 25 1. This case arises from a breach of the Truckee Canal in Lyon County, Nevada, on
26 January 5, 2008.
- 27 2. A Complaint for Damages was filed against numerous Defendants.
- 28 3. Plaintiffs are owners of residential property situated in Fernley, Nevada.
1. Plaintiffs claim that they suffered damages resulting from the flood waters that
came from the breach of the Truckee Canal on January 5, 2008.
5. Plaintiffs allege that the January 5, 2008 flood in Fernley, Nevada was due to the
inadequate maintenance and operation of the Canal, among other reasons. They

1 further assert that the flood consequences were “exacerbated” by the City of
2 Fernley and the County of Lyon because of “intentional indifference” to
3 requiring the contractors and builders of the residential subdivision to construct
4 infrastructure that would minimize the damage caused by flooding in the event
5 the floodwaters entered the subdivision where Plaintiffs’ homes were located.

6 Plaintiffs also assert that the flood consequences were exacerbated by the “errors
7 and omissions” in constructing various elements, including Rolling Meadows
8 subdivision improvements, houses, Jenny’s Lane crossing, and the “Knuckle” at
9 Wrangler Road and Wagon Wheel, committed by the Defendants, as well as
10 allegations of misrepresentations made on the sale of Rolling Meadows
11 properties.

12 7. KING CONSTRUCTION, INC. was a subcontractor hired to complete
13 excavation work at the Rolling Meadows subdivision. KING
14 CONSTRUCTION, INC. also completed work at Jenny’s Lane and the
15 “Knuckle”.

16 8. An amicable global settlement of this matter has been reached among the
17 Plaintiffs and most parties to this case.

18 9. The Settlement Agreement provides that KING CONSTRUCTION, INC. shall
19 pay the sum of \$162,500.00 in exchange for a complete release from the instant
20 action and all pending actions as listed in the Motion.

21 10. KING CONSTRUCTION, INC. had insurance that provided coverage for any of
22 the pending actions.

23 11. The amount paid by KING CONSTRUCTION, INC. will be allocated to the
24 *Rondy* class pursuant to calculations to which KING CONSTRUCTION, INC.
25
26
27
28

was not in privy, but the sum paid is in consideration for the global settlement of all claims and is reasonable.

12. KING CONSTRUCTION, INC. continues as a viable business entity although its business has been drastically reduced because of the economic downturn.

13. There is no evidence or allegation that this settlement is fraudulently, collusively or tortuously aimed at injuring non-settling Defendants.

14. The Court grants approval of the Global Settlement Agreement.

15. The Court finds that the settlement agreement is made in good faith; ~~and~~,

CONSTRUCTION, INC.

IT IS SO ORDERED.

[DATED: August 4, 2011.]


UNITED STATES MAGISTRATE JUDGE

Respectfully submitted by:

CISNEROS CLAYSON & MARIAS

/s/ Thomas Mireczak

THOMAS MIRCZAK, ESO.

One E. First Street, Ste. 1400

Reno, NV 89501

Atorneys for Defendant

KING CONSTRUCTION, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2011, I caused copies of the foregoing document in accordance with Rule 5, to be served on all parties to this action via the U.S. District Court's e-filing (CM/ECF) system.

Attorney	Phone/Fax	Party(ies)
Robert R. Hager, Esq. Treva J. Hearne, Esq. Hager & Hearne 910 Parr Blvd., Ste 8 Reno, NV 89512	775-329-5800 775-329-5819 fax	Attorneys for Plaintiffs
Lee T. Hotchkin, Esq. 1025 Ridgeview Dr., Ste 200 Reno, NV 89519	775-786-5791 775-786-8524 fax	Attorneys for Plaintiffs
Randall K. Edwards, Esq. The Kearns Building 136 So. Main St., Ste 700 Salt Lake City UT 84101	801-328-0300 801-328-4822 fax	Attorneys for Plaintiffs
Calvin R.X. Dunlap Monique Laxalt Dunlap & Laxalt P.O. Box 3689 Reno, NV 89505	775-323-7790 775-323-5454 fax	Attorney for Proposed Intervenor Plaintiffs
Robert C. Maddox Robert C. Maddox & Associates 10587 Double R Blvd., Ste 100 Reno, NV 89521	775-322-3666 775-322-6338 fax	Attorney for Proposed Intervenor Plaintiffs
Patrick R. Leverty Leverty & Associates 832 Willow Street Reno, NV 89502	775-322-6636 775-322-3953	Attorney for Proposed Intervenor Plaintiffs
Newel B. Knight, Esq. Stephens Knight & Edwards 401 Ryland Street, Ste 330 Reno, NV 89502	775-786-5776 775-786-5044 fax	Attorneys for C.A.L. Investment Properties
Gregory Addington, Esq. United States Attorney 100 W. Liberty, Ste 600 Reno, NV 89501	775-784-5438 775-784-5181 fax	Attorneys for Federal Defendants
Michael J. Van Zandt, Esq. Nathan A. Metcalf, Esq. Hanson Bridgett 425 Market Street, 26 th Floor San Francisco, CA 94105	415-777-3200 415-995-3566 fax	Attorneys for Truckee-Carson Irrigation District
Lyman F. McConnell, Esq. 1247 Rice Road Fallon, NV 89406	775-423-6923	Attorneys for Truckee Carson Irrigation District
William H. Doyle, Esq. M. Craig Murdy Doyle Berman Murdy 3295 N. Fort Apache Rd., Ste 110 Las Vegas, NV 89129	702-873-1622	Attorneys for Truckee Carson Irrigation District and David P. Overvold

1	Brent T. Kolvet, Esq. Thomdal Armstrong Delk Balkenbush & Eisinger 6590 So. McCarran Blvd., Ste B Reno, NV 89509	775-786-2882 775-786-8004 fax	Attorneys for City of Fernley
2	Charles L. Burcham, Esq. Thomdal Armstrong Delk Balkenbush & Eisinger 6590 So. McCarran Blvd., Ste B Reno, NV 89509	775-786-2882 775-786-8004 fax	Attorneys for County of Lyon
3	Anthony Case Esq. Farmer Case & Fedor 2510 Wigwam Pkwy, Ste 206 Las Vegas, NV 89074	702-579-3900 702-579-3001 fax	Attorneys for Keystone Realty, Inc.
4	Gary M. Pakeli, Esq. 432 Court Street Reno, NV 89501	775-348-6699 775-786-5573 fax	Attorney for Altmann-Ott Homes
5	John Aberasturi, Esq. Erickson Thorpe & Swainston 99 West Arroyo Street Reno, NV 89509	775-786-3903 775-786-4160 fax	Attorneys for LL Realty
6	Michael E. Stoberski, Esq. Olson Cannon Gormley & Desruisseaux 9950 West Cheyenne Ave Las Vegas, NV 89129	702-384-4012 702-383-0701 fax	Attorneys for Remax Realty
7	Jean A. Weil, Esq. Jeremy Kilber, Esq. Weil & Drage, APC 2500 Anthem Village Drive Henderson, NV 89052	702-314-1905 702-314-1909 fax	Attorneys for TRC Engineers, fka Vpoint, Martin Ugalde, Robert Bidart and Michael Bidart
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

/s/ Vicky Cralle

An Employee of CISNEROS CLAYSON & MARIAS